IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.397 OF 1999

The Commissioner of Income Tax ..Applicant

Vs.

The Tata Hydro Electric Power
Supply Co. Ltd. ..Respondent

Mr.Ashok Kotangale, A.G.P. for the Applicant.
Mr.P.C.Tripathi for the Respondent.

CORAM :- DR.S.RADHAKRISHNAN &
V.C.DAGA, JJ.

DATE : 20TH MARCH, 2007

P.C.

1. Heard the learned Counsel for the parties.

The above Application pertains to the Assessment Year 1986-1987 seeking to raise the following two substantial questions of law:

1. "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was right in deleting the disallowance made on account of Ash Disposal expenses."

2. "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was right in deleting the disallowance made under Section 37(4) of the Income Tax Act on account of Guest House expenses ?"

2. By consent of both the parties, the above Application is treated as statement of the case.

3. Both the learned Counsel for the parties agreed with regard to the first question of law that the same is squarely covered in favour of the Assessee and against the Revenue, in view of the judgment of our Court in **Income Tax Appeal No.72 of 1999 in the matter of The Commissioner of Income Tax, Mumbai Vs. The Tata Hydro Electric Power Supply Co. Ltd., Mumbai dated 7th December,1999**.

4. So far as the second question of law is concerned, both the learned counsel for the parties state that the issue is squarely covered against the Assessee and in favour of the Revenue, in view of the judgment of the Hon'ble Supreme court in the case of **Britannia Industries Ltd. Vs. Commissioner of Income Tax and Another (2005) 278 ITR 546 (SC)**. Accordingly, the Reference stands disposed of.

(V.C.DAGA,J.) **(DR.S.RADHAKRISHNAN,J.)**